

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS
Adoption of Section 9550, Title 9, California Code of Regulations

OFFENDER TREATMENT PROGRAM

Full Text of Emergency Regulation to be Adopted

ADOPT NEW SECTION 9550 AS SHOWN BELOW:

Chapter 2.6 Offender Treatment Program

§ 9550. Offender Treatment Program

- (a) “Offender Treatment Program (OTP)” means the county program established pursuant to Health and Safety Code (HSC) Section 11999.30

NECESSITY: Definition needed to provide clarity.

- (b) The Department of Alcohol and Drug Programs shall administer OTP funds.

NECESSITY: Required by Health and Safety Code Section 11999.30 (b).

- (c) After adoption of the State Budget Act, the Department shall notify each county of the amount of its OTP allocation. The notice shall specify an amount calculated using the methodology described in (h) of this regulation.

NECESSITY: Needed to clarify when counties will be notified. Needed to comply with HSC § 11814 (c).

- (d) Within 30 days after the Department issues the notice of allocation, each county seeking OTP funds shall submit a written application to the Department by fax at (916)327-7308, electronically at www.adp.ca.gov/sacpa/srisindex or by mail at the following address:

California Department of Alcohol and Drug Programs
Office of Criminal Justice Collaboration
1700 K Street, 5th Floor
Sacramento, CA 95811

Approval of funding may be denied if the county does not submit its application within 30 days from the date of the notice of allocation.

NECESSITY: Needed for clarity so that counties will know when and where to submit applications. 30 days chosen to allow sufficient time for counties to prepare the application. Time limited to 30 days so that the Department will have sufficient time after receipt of applications to review applications and

distribute funds in a timely manner so counties can use their OTP funds within the fiscal year.

(e) The county's OTP application shall include:

- (1) The amount of OTP funds requested.
- (2) A budget specifying how the county plans to use OTP funds for direct treatment and client services for SACPA offenders; and
- (3) A statement ensuring that the county will comply with the requirements of this regulation and with HSC Section 11999.30(d).
- (4) A statement ensuring that the county will not use OTP funds to supplant funds from any other fund source used to provide drug treatment services in the county.
- (5) The amount and source of the county's matching funds as required by HSC Section 11999.30(c). A county shall not use any of the following sources of funds for the required match:
 - (A) State General Fund and federal funds received through any state agency, such as Substance Abuse Prevention and Treatment (SAPT) Block Grant funds;
 - (B) Substance Abuse Treatment Trust Funds (SATTF) funds; and
 - (C) Substance Abuse Treatment and Testing Accountability (SATTA) program funds.

NECESSITY: Needed to clarify contents of the application and to comply with HSC 11999.30 (c), (d), and (f). Information needed for ADP to review to ensure that the county can comply with HSC 11999.30.

(f) The Department shall review the county application for OTP funding to assure compliance with the requirements of Subsection (e) of this regulation and HSC Section 11999.30(c), (d), and (f). Within 20 days of receipt of the application, the Department shall notify the county in writing if additional information is needed. The county shall provide the requested information within 20 days of the date of the notice. Within 20 days of receipt of all necessary information, the Department shall send the county notice of tentative approval or denial of the application.

NECESSITY: Needed to clarify review and approval of request for funds consistent with HSC 11999.30(f). 20 day time limit needed to maintain consistency with SACPA requirements at Title 9 §9515 (d).

(g) Within 90 days of the date of notice of tentative approval, the county shall provide ADP with a signed copy of the county board of supervisors approval (e.g. resolution,

minutes, order, motion, ordinance, or delegation of authority) stating that the county agrees to comply with the requirements of this regulation and Section 11999.30 of the Health and Safety Code. Within 20 days of receipt of the county board of supervisors' approval, the Department shall send a notice of final approval to the county.

NECESSITY: Needed to confirm county's commitment to use OTP funds in accordance with requirements of this regulation and to comply with HSC § 11999.30 (d), (e), and (f).

(h) The Department shall allocate OTP funds as described below:

(1) From funds appropriated under the State Budget Act, the Department shall deduct its costs for administration of the OTP to determine the amount of state OTP funds available for allocation to counties.

(2) After deducting its costs of administering the OTP program, the Department shall allocate the remaining OTP funds to counties as shown below:

(A) No less than fifty percent (50%) of OTP funds shall be allocated based on county population, as described in Subsection (h)(4)(A) of this regulation.

(B) Up to twenty-five percent (25%) of OTP funds shall be allocated based on county show rate, as described in Subsection (h)(4)(B) of this regulation.

(C) Up to twenty-five percent (25%) of OTP funds shall be allocated based on county completion rate, as described in Subsection (h)(4)(C) of this regulation.

(D) Any remaining available OTP funds shall be allocated to counties as a supplemental allocation, as described in Subsection (h)(5) of this regulation.

NECESSITY: Allocation formula needed to comply with HSC § 11999.30(b).

(3) As used in this regulation, "show rate" means the percentage of Substance Abuse and Crime Prevention Act of 2000 (SACPA)--eligible offenders sentenced to treatment who have commenced participation in treatment services, as reported through the California Outcome Measurement System (CalOMS), the Department's main data system for monitoring treatment clients. The Department shall calculate the show rate for the fiscal year using unique SACPA admissions of probationers and parolees reported through CalOMS for the fiscal year divided by referrals for the fiscal year, as reported by the counties through SACPA Reporting Information System (SRIS), the SACPA data system. "Completion rate" means the percentage of SACPA offenders admitted to treatment who complete all services specified

in their treatment or recovery plan, as reported through CalOMS. The Department shall adjust the show rate allocation and the completion rate allocation by county population ratio, as described in Subsection (h)(4)(A) of this regulation, to distribute funds equitably among counties.

NECESSITY: Needed for clarity. Allocations are adjusted by county population ratio for equity, so that county OTP allocations are consistent with the size of the county and the number of SACPA clients served. Referrals are obtained through SRIS because CalOMS reports data only on those clients admitted for treatment.

(4) The Department shall compute the OTP allocation for each county as described below:

(A) After the adjustments made in (h)(1) of this regulation, the Department shall distribute fifty percent (50%) of available OTP funds to counties based on county population. The Department shall adjust the allocation by the ratio of each county's population to the total statewide population, based on county population and statewide population data obtained from the California Department of Finance.

For example:

If County X's population were 1,000,000, and the total statewide population were 10,000,000, the Department would divide County X's population of 1,000,000 by the total statewide population of 10,000,000 resulting in County X's population ratio of .1000. After the adjustments made in Subsection (h)(1) of this regulation, if the amount of available funds to be allocated were \$15,000,000, the Department would multiply that \$15,000,000 by fifty percent (50%) resulting in \$7,500,000. The Department would multiply that \$7,500,000 by County X's population ratio of .1000 to arrive at County X's allocation of \$750,000.

NECESSITY: County population is included as a factor in the formula in order to distribute funds equitably among small, medium, and large counties so that counties with greater populations, and more clients, receive a greater share of OTP funds.

(B) After the adjustments made in (h)(1) above, the Department shall distribute up to twenty-five percent (25%) of the total OTP funds to counties based on each county's show rate. The Department shall multiply twenty-five percent (25%) of the OTP funds by each county's population ratio [as described in Subsection (h)(4)(A) of this regulation] to determine the maximum possible allocation for each county. The Department shall multiply each county's show rate [as described in Subsection (h)(3) of this regulation] by the maximum possible allocation to determine each county's show rate allocation.

For example:

After the adjustments made in Subsection (h)(1) of this regulation, ,if the amount of available funds to be allocated were \$15,000,000, ,the Department would multiply that \$15,000,000 by twenty-five percent (25%) resulting in \$3,750,000. The Department would multiply that \$3,750,000 by County X's population ratio of .1000, resulting in \$375,000 for County X's maximum possible show rate allocation. If county X's show rate were fifty percent (50, the Department would multiply fifty percent (50%) by thet \$375,000 to arrive at County X's show rate of \$187,500 for County X's show rate allocation.

NECESSITY: The 25% show rate allocation is adjusted by county population so that larger counties with more SACPA clients have the opportunity to receive more funds than smaller counties with fewer SACPA clients. A county will receive up to 25% of the total OTP funds, adjusted by county population, if its show rate is 100%. The show rate determines how much of the maximum possible 25% allocation the county receives.

After the adjustments made in Subsection (h)(1) of this regulation, the Department shall distribute up to twenty-five percent (25%) of the total OTP funds to counties based on each county's completion rate. The Department shall multiply up to twenty-five percent (25%) of the total OTP funds by each county's population ratio [as described in Subsection (h)(4)(A) of this regulation] to determine the maximum possible allocation for each county The Department shall then multiply each county's completion rate [as described in Subsection (h)(3) of this regulation] by the maximum possible allocation to determine each county's completion rate allocation.

For example:

After the adjustments made in Subsection (h)(1)of this regulation,, the amount of available funds to be allocated would be \$15,000.000. The Department would multiply that \$15,000,000 by twenty five percent (25%) resulting in \$3,750,000. The Department would multiply that \$375,000 by County X's population ratio of .1000, resulting in \$375,000 for County X's maximum possible completion rate allocation. If County X's completion rate were forty percent (40%), the Department would multiply forty percent (40%) by \$375,000, to arrive at County X's completion rate allocation of \$150,000

NECESSITY: The 25% completion rate allocation is adjusted by county population so that larger counties with more SACPA clients have the opportunity to receive more funds than smaller counties with fewer SACPA clients. A county will receive up to 25% of the total OTP funds, adjusted by county population, if its completion rate is 100%. The completion rate determines how much of the maximum possible 25% allocation the county receives.

(D) The Department shall add each county's population allocation, show rate allocation, and completion rate allocation to determine each county's base allocation.

For example:

The Department would add County X's population allocation of \$750,000, its show rate allocation of \$187,500, and its completion rate allocation of \$150,000 to arrive at a base allocation for County X of \$1,087,500.

NECESSITY: Needed to clarify how base allocation will be calculated.

(5) The Department shall compute the OTP supplemental allocation as described below:

If the total of the base allocations for all counties is less than the total OTP funds available, the Department shall distribute a supplemental OTP allocation. The Department shall add all counties' base allocations as determined in (h)(4)(D), and subtract that amount from the total OTP funds available, as described in (h)(1) above, to determine the amount available for a supplemental allocation. The Department shall divide each county's base allocation as determined in Subsection (h)(4)(D) of this regulation by the total base allocations for all counties to determine each county's supplemental allocation ratio. The Department shall multiply each county's supplemental allocation ratio by the total amount available for OTP supplemental allocations to determine each county's supplemental allocation.

For example:

If the total base allocations under Subsection (h)(4)(D) of this regulation were \$10,000,000,, the Department would subtract that \$10,000,000 from state OTP funds available of \$15,000,000 as described in Subsection (h)(4)(A) of this regulation, to determine that \$5,000,000 were available for total supplemental OTP allocations. The Department would divide County X's total base allocation of \$1,087,500, as described in Subsection (h)(4)(D) of this regulation, by the total county OTP allocation of \$10,000,000, resulting in County X's supplemental allocation ratio of .10875.. The Department would multiply the \$5,000,000 total supplemental OTP allocation by County X's supplemental allocation ratio of .10875 to arrive at County X's supplemental allocation of \$543,750.

NECESSITY: Needed to allocate all available funds.

(6) ADP shall add each county's base allocation, as described in Subsection (h)(4)(D) of this regulation, to its supplemental allocation, as described in Subsection (h)(5) of this regulation, to determine the total OTP allocation for each county.

For example:

If County X's base allocation were \$1,087,500 and its supplemental allocation were \$543,750, its total allocation would be \$1,631,250.

NECESSITY: Needed to allocate all available funds.

- (i) If the State reduces the amount of OTP funds currently available , the Department shall proportionately reduce allocations to all participating counties based on each county's population ratio as described in Subsection (h)(4)(A) of this regulation.

NECESSITY: Needed to clarify how reductions in state funding will be handled. Since the largest unadjusted part of funding (50%) is allocated based on the county population ratio, it is appropriate to allocate budget reductions using the population ratio.

- (j) The county shall expend OTP funds in accordance with the requirements of (k) of this regulation, HSC §11999.30, and Title 9, California Code of Regulations, §9530 (f), (g), (h), and (i).

NECESSITY: Needed to specify allowable expenditures of OTP funds consistent with allowable expenditures of SATTF funds.

- (k) OTP funds may be used to:

- (1) Provide alcohol and other drug treatment services for SACPA-eligible offenders;
- (2) Cover the costs of placing clients in drug treatment and providing drug treatment services provided by drug treatment programs as defined in Penal Code § 1210 (b), and additional services supplemental to treatment as defined in Title 9, California Code of Regulations, § 9505 (a)(2);
- (3) Provide enhanced drug treatment services, such as residential treatment and narcotic replacement therapy, for those clients with assessed need for the services;
- (4) Increase the percentage of clients who enter, remain in, and complete treatment, through activities and approaches such as locating assessment units or centers in or near the court, enhanced supervision, and enhanced services determined necessary through the use of substance abuse testing;
- (5) Reduce delays in the availability of treatment services by improving coordination between criminal justice and treatment personnel with the goal of admitting SACPA--eligible offenders into treatment in the shortest possible time; increasing levels of criminal justice and treatment oversight and supervision; and expanding county treatment provider's service capacity;
- (6) Organize dedicated court calendars with regularly scheduled reviews of the progress of SACPA--eligible offenders and conduct collaboration among the courts, probation, treatment, and other stakeholders;

- (7) Develop necessary innovative treatment services as indicated by drug test results; and
- (8) Support one or more staff positions dedicated to OTP services.. such as a personnel position needed for treatment of a client (e.g., scheduling appointments, filing treatment-related documents), or a probation officer position if the work is directly tied to engaging and retaining SACPA--eligible offenders in treatment.
- (9) Provide mental health services for SACPA eligible-offenders with co-occurring disorders (COD), i.e., clients needing both mental health and AOD treatment services. Counties may use up to five percent (5%) of their annual allocation for mental health services for SACPA-eligible offenders with COD.

NECESSITY: Needed for clarity and to comply with HSC § 11999.30(e) and (f) so that all OTP funds will be used to provide services to SACPA offenders.

- (l) The county shall expend OTP funds in accordance with the budget submitted with the OTP application approved by the Department pursuant to Subsection (e) of this regulation. Any single or cumulative budget change greater than ten percent (10%) must be reported to and approved by the Department prior to expenditure of funds.

NECESSITY: Needed to maintain contents of the application and to comply with HSC §11999.30(f) and Title 9 § 9515 (e).

- (m) The Department shall reimburse OTP expenditures quarterly in arrears. To claim reimbursement for OTP expenditures, the county shall submit to the Department:

- (1) A quarterly data report specifying SACPA services and activities, and

NECESSITY: Needed to comply with HSC § 11999.30 (h).

- (2) A quarterly invoice for reimbursement, detailing actual expenditures of OTP and matching funds. The county shall establish separate expenditure codes to differentiate costs between SACPA and OTP and among fiscal years.

NECESSITY: Needed to maintain consistency with auditing standards for SATTf funds and to implement, interpret, and make specific HSC §11999.30 (g).

- (n) The county shall submit the quarterly invoice and data report no later than:

- (1) October 31 for the period beginning July 1 and ending September 30;
- (2) January 31 for the period beginning October 1 and ending December 31;
- (3) April 30 for the period beginning January 1 and ending March 31; and

(4) July 31 for the period beginning April 1 and ending June 30.

NECESSITY: Invoices are needed to assure that funds were spent in accordance with the requirements of HSC §11999.30.

(o) The Department shall review county invoices and quarterly data reports to ensure completion. If the invoice or quarterly report is incomplete, the Department shall notify the county that additional information is needed. The Department may disallow any expenditure that fails to comply with the provisions of this regulation and shall so notify the county, in writing.

NECESSITY: Needed to clarify how counties receive OTP funds.

(p) Based on invoices submitted and approved for payment under Subsections (n) (1) and (2) of this regulation, the Department shall make an annual projection of OTP expenditures. If, based on its projection, the Department reasonably believes that the county will not expend its entire allocation, the Department shall:

(1) Notify the county in writing that the Department may reduce the county's allocation unless the county provides written justification within 10 days of the notification, detailing how it will expend its allocated OTP funds. Based on the county's justification and its prior OTP expenditures, the Department may adjust its projection;

(2) Reduce the county's OTP allocation by the amount projected to be unspent;

(3) Notify counties whose allocations were not reduced that additional funds may be available for reallocation and how to request reallocated funds;

(4) Based on its evaluation of justifications provided by the counties and county expenditure history, reallocate the amount of unspent funds to counties that have:

(A) Submitted timely invoices and data reports as required in Subsection (n) of this regulation, and

(B) Justify in writing to the Department that they can expend additional funds by the end of the fiscal year on activities allowed under Subsection (k) of this regulation.

NECESSITY: Needed to encourage expenditure of available OTP funds in order to maximize provision of services to SACPA clients.

(q) The county shall comply with the audit requirements of Section 9550.

NECESSITY: Needed to maintain consistency with auditing standards for SATTF funds and to comply with §9550 (a).

- (r) The Department shall audit the county's expenditure of OTP funds in accordance with the requirements of Section 9540, except that the Department may audit on other than an annual basis.

NECESSITY: Needed to maintain consistency with auditing standards for SATTF funds and to comply with §9540(b).

NOTE: Authority cited: Section 11755, Health and Safety Code. Reference: Section 11999.30, Health and Safety Code.